

Decade-long Smith case costs now past \$300,000

By JO ANN SPEELMAN
The Daily Inter Lake

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But that was to prove just a drop in the bucket of taxpayer costs in the celebrated murder case. Nearly 13 years later, expenses continue to pile up for Flathead County, state and federal governments, as the Canadian murderer's repeated appeals work their way through the court system.

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See SMITH on Page A2

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MISSOULA DISTRICT

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THE TWO HAVE made several trips to California to meet with expert witnesses. Airfares, motels, taxi rides, rental cars, meals, and other expenses are among defense bills piling up in the auditor's office. The bills are paid, and the county forwards them to the state, which reimburses the county for some costs.

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Defense

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JAN 08 1995

JACKSON & RICE

CLERK OF DISTRICT COURT

95 DEC -6 AM 10:46

FILED

BY _____
DEPUTY

1 John W. Larson, District Judge
2 Fourth Judicial District Dept. 3
3 Missoula County Courthouse
Missoula, MT 59802
4 (406) 523-4773
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MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

STATE OF MONTANA,

Cause No. DC-82-126(B)

Plaintiff,

vs.

ORDER ON ATTORNEY'S FEES

RONALD ALLAN SMITH,

Defendant.

14 Following the resentencing and automatic appeal in this matter
15 to the Montana Supreme Court, counsel submitted a request for
16 increased compensation and the approval of compensation rendered
17 since the resentencing.

18 This Court reviewed prior Montana Supreme Court appeals, not
19 only in this case but in other capital cases, and determined that it
20 is the generally accepted practice, and certainly very logical, for
21 the counsel who participated in sentencing to undertake the appeal.
22 To be sure the more recent appeal, State of Montana v. Smith, 261
23 Mont. 419, 863 P.2d 1000 (1993), was undertaken by the State
24 Appellate Defender, the Court has determined this to be the
25 exception and not the rule.

26 In this instance, it was of great benefit to the Defendant and

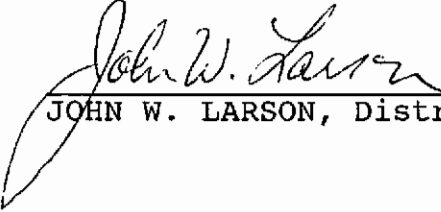
1 the progress of this case that Mr. Gregory Jackson, Esq., was
2 available to undertake the role as lead counsel during the
3 resentencing. First, Mr. Jackson had extensive experience with this
4 case and the federal habeas appeal. Second, Mr. Jackson was
5 available when Mr. Don Vernay, Esq., during the resentencing
6 process, determined he could no longer continue and withdrew from
7 the case. Later, Mr. Vernay returned to the case and was
8 substituted with the agreement of the Flathead Public Defender.

9 The Court, during the appeal process, does not believe that it
10 is necessary to pay travel time to counsel since the phone lines,
11 fax lines, etc., are available to coordinate meetings. Thus, the
12 expenses requested for travel time by Mr. Vernay are DENIED.
13 Second, since it is Mr. Jackson's role as lead counsel to determine
14 the various allocations of time, this Court approves all of Mr.
15 Jackson's time rendered in October and November 1995. Further, the
16 Court believes that Mr. Vernay's time for the month of October
17 should be reduced by eight hours, which is half of Mr. Jackson's
18 claimed time in October, and three hours during November. Also, the
19 Flathead County Auditor's office reimburses for out-of-county per
20 diem at \$4.00 for breakfast, \$6.00 for lunch and \$8.00 for dinner;
21 for out-of-state per diem it is \$6.50 for breakfast, \$8.50 for lunch
22 and \$15.00 for dinner. Therefore, the Court reduces Mr. Vernay's
23 meals to the appropriate amount.

24 This reduction properly focuses the role of Mr. Jackson as lead
25 counsel and voids unnecessary duplication. The Court notes that in
26 the federal habeas appeals that only one counsel, Mr. Jackson, is

1 employed by the Court, and also in most other appeals to the Montana
2 Supreme Court only one counsel was involved.

3 DATED this 5th day of December, 1995.

4
5 
6 JOHN W. LARSON, District Judge

7
8 cc: Don Vernay
9 Greg Jackson
10 Thomas Esch
11 Flathead County Auditor

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SB

JAN 11 1995

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 96-010

JACKSON & RICE
FILED

JAN - 9 1995

Ed Smith
CLERK OF SUPREME COURT
STATE OF MONTANA

RONALD ALLEN SMITH,

Petitioner,

v.

DISTRICT COURT OF THE ELEVENTH
JUDICIAL DISTRICT OF THE STATE OF
MONTANA, IN AND FOR THE COUNTY OF
FLATHEAD, and HONORABLE JOHN W.
LARSON, District Judge,

Respondents.

O R D E R

Petitioner has filed herein an application for writ of supervisory control or other alternative writ. The application was entitled "State of Montana, Plaintiff/Appellee, vs. Ronald Allen Smith, Defendant/Appellant." Pursuant to Rule 17(c), M.R.App.P., the petition has been recaptioned as shown above.

The petition seeks relief in relation to a December 5, 1995 order entered in the District Court for the Eleventh Judicial District, Flathead County, in Cause No. DC-82-126(B). That order relates to attorney fees and certain expenses, specifically including travel expenses, incurred by defense counsel in relation to the appeal of that matter to this Court.

IT IS ORDERED:

1. Pursuant to Rule 17(c), M.R.App.P., petitioner is directed to serve upon the Honorable John W. Larson, District Judge, a copy of the application for writ of supervisory control filed herein.

2. The petition for writ of supervisory control or other alternative writ is granted as specifically set forth and limited herein.

3. The following portion of the District Court's December 5, 1995 order is stricken:

The Court, during the appeal process, does not believe that it is necessary to pay travel time to counsel since

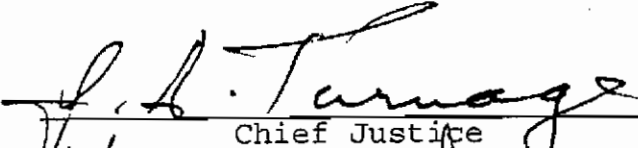
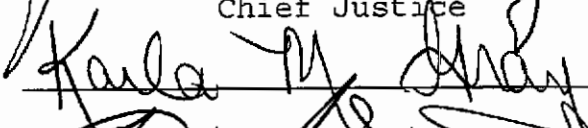

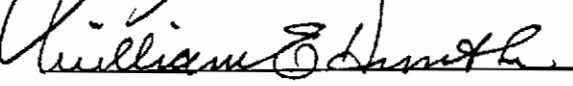
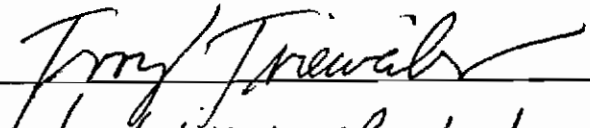
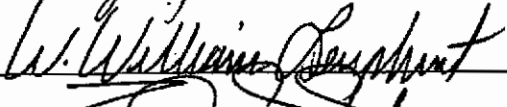

the phone lines, fax lines, etc., are available to coordinate meetings. Thus, the expenses requested for travel time by Mr. Vernay are DENIED.

Counsel for defendant and appellant shall be allowed actual and necessary travel expenses relating to preparation of the defense of the defendant and appellant in this appeal.

4. The remainder of the relief sought in the petition for supervisory control or other alternative writ is DENIED.

5. The Clerk is directed to mail a true copy of this order to counsel for petitioner, counsel for the State of Montana in Flathead County Cause No. DC-82-126(B) and to the Honorable John W. Larson, District Judge.

DATED this 9th day of January, 1996.


Chief Justice






Justices

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Nos. 95-477 and 95-494

STATE OF MONTANA,

Plaintiff and Respondent,

v.

RONALD ALLEN SMITH,

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O R D E R

Appellant has moved to remand this case to the district court or to allow supplementation of the record on appeal. He has attached to his motion the materials he proposes be added to the record, copies of seven newspaper articles. Respondent has filed a response asking that the motion be denied.

Appellant cites this Court's opinion in State v. Keith (1988), 231 Mont. 214, 754 P.2d 474, as authority that the offered newspaper articles should be admitted to demonstrate that the District Court was swayed by public opinion or media pressure. However, the subject of the only article quoting the District Judge was the high cost of this case. In that article, Judge Larson acknowledged that costs run high in death penalty cases. Appellant has offered nothing to indicate that those high costs, nor any of the other newspaper articles, influenced the District Court in sentencing Smith.

We conclude that, to the extent the newspaper articles are not already part of the record in this case, they have not been shown to be appropriate or relevant for consideration on appellate review. Appellant's motion is therefore DENIED.

The Clerk is directed to mail copies of this order to counsel of record for the respective parties.

DATED this 9th day of April, 1996.

FILED

APR 09 1996

Ed Smith
CLERK OF SUPREME COURT
STATE OF MONTANA

J. A. Turnage
Chief Justice
[Signature]
Q882

EXHIBIT D

William E. Hurst
Kara M. Gray
W. William Byrd

Justices

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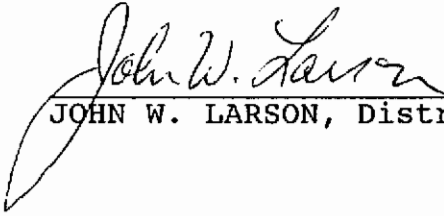
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4 case and the federal habeas appeal. Second, Mr. Jackson was
5 available when Mr. Don Vernay, Esq., during the resentencing
6 process, determined he could no longer continue and withdrew from
7 the case. Later, Mr. Vernay returned to the case and was
8 substituted with the agreement of the Flathead Public Defender.

9 The Court, during the appeal process, does not believe that it
10 is necessary to pay travel time to counsel since the phone lines,
11 fax lines, etc., are available to coordinate meetings. Thus, the
12 expenses requested for travel time by Mr. Vernay are DENIED.
13 Second, since it is Mr. Jackson's role as lead counsel to determine
14 the various allocations of time, this Court approves all of Mr.
15 Jackson's time rendered in October and November 1995. Further, the
16 Court believes that Mr. Vernay's time for the month of October
17 should be reduced by eight hours, which is half of Mr. Jackson's
18 claimed time in October, and three hours during November. Also, the
19 Flathead County Auditor's office reimburses for out-of-county per
20 diem at \$4.00 for breakfast, \$6.00 for lunch and \$8.00 for dinner;
21 for out-of-state per diem it is \$6.50 for breakfast, \$8.50 for lunch
22 and \$15.00 for dinner. Therefore, the Court reduces Mr. Vernay's
23 meals to the appropriate amount.

24 This reduction properly focuses the role of Mr. Jackson as lead
25 counsel and voids unnecessary duplication. The Court notes that in
26 the federal habeas appeals that only one counsel, Mr. Jackson, is

1 employed by the Court, and also in most other appeals to the Montana
2 Supreme Court only one counsel was involved.

3 DATED this 5th day of December, 1995.

4
5 
6 JOHN W. LARSON, District Judge

7
8 cc: Don Vernay
9 Greg Jackson
10 Thomas Esch
11 Flathead County Auditor

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JAN 11 1995

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 96-010

JACKSON & RICE

FILED

JAN - 9 1996

Ed Smith
CLERK OF SUPREME COURT
STATE OF MONTANARONALD ALLEN SMITH,
Petitioner,

v.

O R D E R

DISTRICT COURT OF THE ELEVENTH
JUDICIAL DISTRICT OF THE STATE OF
MONTANA, IN AND FOR THE COUNTY OF
FLATHEAD, and HONORABLE JOHN W.
LARSON, District Judge,
Respondents.

Petitioner has filed herein an application for writ of supervisory control or other alternative writ. The application was entitled "State of Montana, Plaintiff/Appellee, vs. Ronald Allen Smith, Defendant/Appellant." Pursuant to Rule 17(c), M.R.App.P., the petition has been recaptioned as shown above.

The petition seeks relief in relation to a December 5, 1995 order entered in the District Court for the Eleventh Judicial District, Flathead County, in Cause No. DC-82-126(B). That order relates to attorney fees and certain expenses, specifically including travel expenses, incurred by defense counsel in relation to the appeal of that matter to this Court.

IT IS ORDERED:

1. Pursuant to Rule 17(c), M.R.App.P., petitioner is directed to serve upon the Honorable John W. Larson, District Judge, a copy of the application for writ of supervisory control filed herein.

2. The petition for writ of supervisory control or other alternative writ is granted as specifically set forth and limited herein.

3. The following portion of the District Court's December 5, 1995 order is stricken:

The Court, during the appeal process, does not believe that it is necessary to pay travel time to counsel since

EXHIBIT C

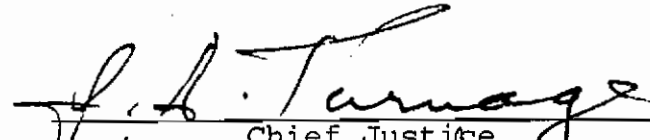
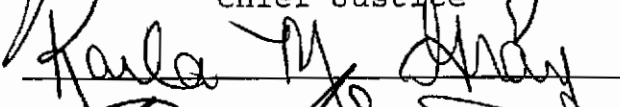


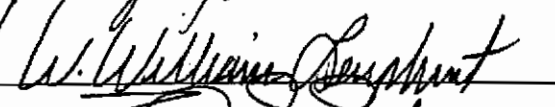

the phone lines, fax lines, etc., are available to coordinate meetings. Thus, the expenses requested for travel time by Mr. Vernay are DENIED.

Counsel for defendant and appellant shall be allowed actual and necessary travel expenses relating to preparation of the defense of the defendant and appellant in this appeal.

4. The remainder of the relief sought in the petition for supervisory control or other alternative writ is DENIED.

5. The Clerk is directed to mail a true copy of this order to counsel for petitioner, counsel for the State of Montana in Flathead County Cause No. DC-82-126(B) and to the Honorable John W. Larson, District Judge.

DATED this 9th day of January, 1996.


Chief Justice


William E. Smith



Justices

IN THE SUPREME COURT OF THE STATE OF MONTANA

Nos. 95-477 and 95-494

STATE OF MONTANA,

Plaintiff and Respondent,

v.

RONALD ALLEN SMITH,

Defendant and Appellant.

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JACKSON & RICE

O R D E R

Appellant has moved to remand this case to the district court or to allow supplementation of the record on appeal. He has attached to his motion the materials he proposes be added to the record, copies of seven newspaper articles. Respondent has filed a response asking that the motion be denied.

Appellant cites this Court's opinion in State v. Keith (1988), 231 Mont. 214, 754 P.2d 474, as authority that the offered newspaper articles should be admitted to demonstrate that the District Court was swayed by public opinion or media pressure. However, the subject of the only article quoting the District Judge was the high cost of this case. In that article, Judge Larson acknowledged that costs run high in death penalty cases. Appellant has offered nothing to indicate that those high costs, nor any of the other newspaper articles, influenced the District Court in sentencing Smith.

We conclude that, to the extent the newspaper articles are not already part of the record in this case, they have not been shown to be appropriate or relevant for consideration on appellate review. Appellant's motion is therefore DENIED.

The Clerk is directed to mail copies of this order to counsel of record for the respective parties.

DATED this 9th day of April, 1996.

FILED

APR 09 1996

Ed Smith
CLERK OF SUPREME COURT
STATE OF MONTANA

J. H. Turnage
Chief Justice
[Signature]
Q882

EXHIBIT D

William E. Smith
Kara M. Gray
W. William Byrd

Justices